IN VACATION.

Mr. Justice Holmes, but yesterday the most recent appointment to the United States Supreme Court, is from Boston, and is—none of us can be ignorant of a fact which has been mentioned in almost every newspaper which has commented on his appointment—a son of Dr. O. W. Holmes, the genial poet and essayist. He is, as his father's son should be, master of a style and a man of wide culture and learning. In *Bleistein* v. *Donaldson Lithographic Company*, 23 U. S. Sup. Ct. Rep. 298, the question before the court was whether colored pictures on ordinary "show papers" or circus posters, portraying, in the usual style of circus-poster art, respectively a ballet, a number of men and women (described as "the Stirk family") performing on bicycles, and groups of people whitened to represent statues, were within the protection of the copyright acts. Mr. Justice Holmes wrote the opinion of the court, which decides that they are within such protection. In the course of his opinion he displays an imposing knowledge of art and artists, such, we venture to say, as none of his associates would or could have displayed. He says that painting from life must be within the protection of the acts, for "the opposite proposition would mean that a portrait by Valesquez or Whistler was common property because others might try their hands on the same face." He alludes to "the etchings of Rembrandt or Müller's engraving of the Madonna di San Sisto"; declares that "a rule cannot be laid down that would excommunicate the paintings of Degas"; states that "it may be more than doubtful, for instance, whether the etchings of Goya or the paintings of Manet would have been sure of protection when seen for the first time," and enforces a proposition by a quotation from Ruskin ("Elements of Drawing," 1st ed. 3) as an expert. At first sight, circus posters seem hardly worthy of so much graceful erudition, but a cultured judge may find, even in the humblest subjects, much to suggest analogies to matters in his profoundest reading. In *State* v. *Neal*, 120 N. Car. 613, a case founded on the killing of trespassing chickens, Judge Clarke of the Supreme Court of North Carolina found quotations from Milton, Ossian, and Tacitus helpful, as well as allusions to Nero, Asdrubal, and Hannibal. A hundred years ago it was the fashion of our more learned judges to quote from Virgil, Horace, or Ovid in their opinions, regardless of the fact that perhaps not one lawyer in a hundred could translate the quotations without the help of a dictionary. Yet we may be sure that such a knowledge of "belles lettres," as it was the fashion to call these evidences of reading, were highly gratifying even in books intended to state propositions of plain unvarnished law. Equally pleasing may be the assumption on the part of Mr. Justice Holmes that the readers of the Reports of the Supreme Court of the United States will find the allusion to "the etchings of Goya or the paintings of Manet" most clarifying, and will rise in indignant protest at any rule which will exclude from the protection of the copyright laws "the paintings of Degas" or "Müller's engraving of the Madonna di San Sisto." But such an opinion must be addressed to an audience fit though few.—*April Law Notes.*

In *Tyler* v. *Judges*, 175 Mass. 71, affirming the validity of the Torrens Land Act of that State, Mr. Justice Holmes said, citing *Hurtado* v. *California*, 110 U. S. 516: "It is not enough to show a procedure to be unconstitutional to say that we have never heard of it before."—EDITOR VA. LAW REG.